IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6703 OF 2004

Mr.P.J.Thorat h/f Mr.R.A.Thorat for the Petitioner.

Mr.S.M. Railkar for Respondent No.1.

Mr.M.H.Solkar, AGP for State.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 6TH JULY,2005

P.C.:

1. Rule. Returnable forthwith. Heard finally by consent of parties.

2. The Plaintiff/Respondent No.1 has filed a civil suit being Regular Civil Suit No.147 of 2003 in the trial court. In this suit the Petitioner filed an application before the trial court seeking direction to the Plaintiff that the Petitioner should be directed to be joined as a defendant in the suit. The reason that was given is that

the order which is challenged in the suit passed by the collector has been passed by the Collector on an application made by the Petitioner and it is the Petitioner who is the beneficiary of that order, because the order is for supply of electricity to the portion of the house, which is occupied by the Petitioner. It appears from the record that the position that the order which is challenged in the petition is passed on an application made by the Petitioner and at the instance of the Petitioner and that the Petitioner is a beneficiary of that order is not disputed by the parties. Still, the court surprisingly holds that the Petitioner is not a necessary party to the suit. In case, the relief claimed in the suit is granted, it is the Petitioner who will suffer because electricity connection given to the portion of the house occupied by him will be withdrawn . Presence of the Petitioner before the court for completing the adjudication of the subject matter of the suit is necessary. Therefore, the

Petitioner is a necessary party to the suit.

2. In the result, therefore, the present petition succeeds and is allowed. The order dated 27-8-2003 passed on an application filed by the Petitioner at Exh.19 on the record of Regular Civil suit No.147 of 2003 is set aside. Application at Exh.19 on the record of Regular Civil Suit No.147 of 2003 is granted. The Plaintiff/Respondent No.1 is directed to join the Petitioner as Defendant in the suit. The Plaintiff is directed to carry out necessary amendment in the plaint within a period of six weeks from today. In case the amendment is not carried out by the Plaintiff within the aforesaid period, the suit of the Plaintiff would be liable to be dismissed for non-joinder of the parties.

Rule made absolute with no order as to costs.

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